THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 27071 of 1995

Dated: 24.11.2006

Between:

The Depot Manager,
APSRTC, Bus Depot, Sanga Reddy

… Petitioner

AND

The Labour Court-II,
Hyderabad.
And another.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 27071 of 1995

ORDER:-

The Depot Manager, APSRTC, Sanga Reddy Bus Depot is the petitioner in this writ petition, who questioned the award of the first respondent – Labour Court made in I.D.No.501 of 1992 (Old I.D.No.135 of 1992) dated 19.11.1994.

While the respondent a conductor conducting bus, there was a check. Following the same, a charge memo was issued against him with the following charges:

> " 1. For having failed to observe the rule of 'issue and start' which constitutes misconduct under Reg.28(xxxii) of APSRTC Employees (Conduct) Regulations, 1963.
>
> 2. For having failed to issue tickets to 23 passengers in batch and individuals found alighting without tickets at Veltoor who boarded the bus at Sadasivapet, ex. Stages 8 to 7 from whom the fare of Rs.1.80 paise each has already been collected at the boarding point itself which constitutes misconduct under Regulation No.28(vi)(a) of APSRTC Employees' (Conduct) Regulations, 1963.
>
> 3. For having failed to close the S.R. with try numbers of all denominations against stages no.6 and 7 which constitutes misconduct under Reg.28(xiv) of APSRTC Employees (Conduct) Regulations, 1963."

After the enquiry, the second respondent was removed from service by the petitioner with effect from 23.2.1991. The appeal preferred by the second respondent to the Divisional Manager was rejected on 22.1.1992. The second respondent therefore moved the first

respondent Labour Court which by the impugned order set aside the order of removal and directed the petitioner to withhold two increments with cumulative effect, apart from denying the second respondent back wages.

No one represented the second respondent despite service of notice. Learned counsel for the petitioner invited my attention to page-4 of the award and submited that the first respondent gave a categorical finding that though the second respondent had collected fare from 23 passengers who are bound to Veltoor he did not issue tickets to them. The learned counsel says that in view of this finding the award of the Labour Court directing reinstatement of the petitioner cannot be sustained.

It is no doubt true that failure of the second respondent to issue tickets having collected fares constitutes misconduct. However, the Labour Court having considered the circumstances under which the second respondent failed to issue the tickets such as the spot submission of 23 passengers who deposed that because of fair at Sadasivapet there was heavy rush in the bus with 104 passengers boarding the bus and that while the second respondent was in the process of issuing the tickets the check was exercised. The Labour Court held that the punishment of removal imposed on the second respondent does not commensurate with the gravity of misconduct and that it is too harsh and severe.

It is no doubt true that once the misconduct is established the quantum of punishment is normally left to the disciplinary authority and the courts generally shall not interfere with the quantum, unless it is felt that the punishment is too severe and disproportionate to the gravity of the charges. The Labour Court having held that the punishment of removal on the solitary instance of non-issue of tickets to 23 passengers being too harsh and disproportionate directed a lesser punishment to be imposed. In view of the facts and circumstances of

the case and having given my earnest consideration, I feel that it is not a case where this Court would interfere with the discretion exercised by the Labour Court as it cannot be said that exercise of such a discretion is unwarranted on the facts of the case or the same suffers from any error.

For the aforementioned reasons, the writ petition is dismissed. No order as to costs.

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24.11.2006.

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